IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

LETTERS PATENT APPEAL NO.209 OF 2006
WITH
CIVIL APPLICATION NO.279 OF 2006
IN
WRIT PETITION NO.6440 OF 2004

Rendal Sahakari Bank Ltd. : Appellant

versus

Assistant Provident Fund Commissioner, Employees Provident Fund Organization, Kolhapur : Respondent.

Mr.M.S.Topkar for the appellant.
Mr.M.S.Karnik for the respondent.

CORAM : D.G.DESHPANDE
SMT.R.S.DALVI, JJ.
DATED : NOVEMBER 21, 2006.

P.C.

1. Heard the learned advocate for appellant/petitioner who has filed this LPA and the learned advocate for the respondent.

2. The LPA is directed against the order of the Single Judge dated 28th August 2006 in Writ Petition No.6440 of 2004. As per the prayer clause (a) in that writ petition, copy of which is annexed with this LPA, two orders dated 30.4.2004 and 12.7.2004 were challenged. The

order dated 12.7.2004 was an order in Review at page 57 (Exhibit G) of this LPA. The said order reads as under :-

> "Please refer above cited subject, in this connection, it is to inform that, your application under Section 7B to Review the 7A order passed on 30/04/2004 has been rejected."

It was against this order, in addition to the original order dated 30/04/2004, that the petitioner had filed earlier petition. The learned Single Judge took into consideration certain notings in the file and they were reproduced in para 2 of his judgment which read as under :-

> "After going through the review application I am convinced that the application does not contain any merits to be considered mainly because the issues raised in the application are repetitions of the earlier submissions by the establishment during the inquiry under Section 7-A. The said issues have

already been dealt with before passing the said order. There are thus no new findings that are to be taken into account and that could influence the order under Section 7-A otherwise. Hence review is rejected."

3. In our considered opinion, the notings in file cannot be equated with the order in review. Order should have been a speaking order after considering the contentions of rival parties and, therefore, this petition has to be admitted. Merely admitting the petition would not be sufficient. Therefore, it was finally heard by consent.

4. The only grievance of the petitioner is that the authority - Assistant Provident Fund Commissioner, Kolhapur, who passed the impugned order dated 12th July 2004 in review should be directed to again hear the review petition and give judgment according to law. This prayer is consistent and in conformity with the rights which the petitioner has. Therefore, we pass the following order :-

:ORDER:

The impugned order of the Single Judge is set aside.

Authority i.e. Assistant Provident Fund Commissioner, Kolhapur is directed to re-hear the petitioner in review petition filed by the petitioner and decide it according to law within three weeks from the date of appearance of the petitioner.

Petitioner to appear before the Assistant Provident Fund Commissioner, Kolhapur on 5th December 2006.

Letters Patent Appeal is disposed of along with the Civil Application.

[D.G.DESHPANDE,J]

[SMT.R.S.DALVI, J]